

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2610 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

AHMED HUSSEIN A BHATTI

Versus

PRANTIJ NAGAR PANCHAYAT

Appearance:

MR YN OZA for Petitioner

MR RN SHAH for Respondent No. 1

MR SP HASURKAR for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 08/10/1999

ORAL JUDGEMENT

1. Rule. With the consent of learned advocates for parties matter is finally heard today.

2. Shri Ahmad Hussein A.BNhatti has filed this petition under Article 226 of the Constitution of India praying for following reliefs:

- (b) Be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus quashing and setting aside the order of termination passed against the petitioner and directing the respondents to treat it as null and void and to reinstate the petitioner in service with full backwages and all consequential benefits;
- (c) Be pleased to issue a writ of mandamus or any other appropriate writ, order or directions in the nature of mandamus directing the respondents to regularise the services of the petitioner from his original date of appointment and to grant him all perquisites since his date of appointment.
- (d) Be pleased to issue a writ of mandamus or anyother writ, order or directions in the nature of mandamus directing the respondents to pay to the petitioner equal pay for equal work as is being paid to permanent Octroi Clerks/Peons from the date of appointment of the petitioner in the grade of Peon and Clerk.
- (e) Pending admission, hearing and final disposal of this petition, be pleased to restrain the respondents from terminating the services of the petitioner and to stay the operation of the order of termination and to suspend its execution, implementation and enforcement and to maintain statusquo as on the previous day of passing of the said order of termination.

2. On 17.1.1991 Division Bench of this court (Coram: A.P.Ravani & M.S.Parikh,JJ) issued rule and granted ad-interim relief till further orders.

3. Mr.Saurabh Mehta for Mr.Yatin Oza, learned advocate for petitioner contended before this court that the petitioner was working as clerk on daily wages with Prantij Nagarpalik-respondent No.1 herein since 6.2.1986. He was originally appointed as Peon on daily wages and he

worked as Peon from 1.4.1977 till 5.2.1986, and thereafter, from 6.2.1986 he was working on daily wages as Clerk.

4. He contended before this court that his services have not been regularised and his services were sought to be terminated, however, no termination order has been put on record.

5. Mr.R.N.Shah, Learned Advocate appeared on behalf of respondent No.1 and on instructions by Mr.Hasurkar, Mr.Joshi, Ld.AGP appeared on behalf of respondent No.2.

6. Mr.Saurabh Mehta has cited several decisions of the Apex Court and submitted that his services should be regularised on the basis of the said decisions of the Honourable Supreme Court.

7. The learned advocates for respondents contested the said submission of Mr.Saurabh Mehta and submitted that there are some judgments of the Supreme Court where the Supreme Court has deprecated the directions and orders of the High Courts where the High Courts directed that the services should be regularised, and so prayer of the petitioner that his services may be regularised can not be granted. It was further contended as the petitioner has not made any application for regularisation before the authorities, this prayer can not be granted.

8. In view of the rival contentions this court do not enter into these contentions and without expressing any opinion on merits, this court directs the petitioner to make representation to the respondent-Nagarपालिका as well as to the State Government for regularisation of his services as he has worked from 1.4.1977 as daily wage employee with the respondent No.1-Municipality and from 6.2.86 worked as Clerk and till date he has been continued in service and and this court hopes and trusts that both the respondent-Nagarपालिका as well as the State Government will consider his representation sympathetically and on humanitarian grounds. The petitioner shall make such representation within two weeks from the date of receipt of copy of this judgment and thereafter the respondents will consider the said representation within three months from the date of receipt of representation at their end.

9. Rule is made absolute to the aforesaid extent with no order as to costs. Petitioner is at liberty to move this court, in case of any difficulty.

